

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: MERRILL LYNCH & CO., INC., :  
SECURITIES, DERIVATIVE AND ERISA :  
LITIGATION :  
: :  
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Master File No.:  
07 Civ. 9633 (JSR)

ORDER

PERTAINS TO *All Actions*

JED S. RAKOFF, U.S.D.J.

At an in-court conference earlier today, October 23, 2008, in the Derivative Action, 07 Civ. 9696, the Court indicated its intention to resolve all motions to dismiss in all three Actions (i.e., the Securities Action, the Derivative Action, and the ERISA Action) by no later than February 17, 2009, and then to have all parties embark on consolidated discovery in all three Actions, with such discovery to be completed no later than October 20, 2009, with a likely trial date of sometime in February, 2010. (Certain limited discovery in some of the Actions, related to injunctive relief or other special purposes, may possibly occur prior to February 17, 2009, a matter on which the Court will shortly be receiving papers from the parties.) If any counsel in either the Securities Action, 07 Civ. 9633, or the ERISA Action, 07 Civ. 10268, objects to any of the above-underscored dates, such counsel should convene a conference call with the Court and other affected parties by no later than Thursday, October 30, 2008 and the Court will consider such objections and issue a further order if necessary. Independently, counsel in the ERISA case should arrange to call the Court by no later than Monday, October 27, 2008 to discuss scheduling of any motions to dismiss related to that Action.

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The previous referral of these Actions to Magistrate Judge Eaton for all pre-trial purposes is hereby modified and clarified as follows: All discovery matters will remain referred to Magistrate Judge Eaton, including any motions or applications related solely to discovery. The Magistrate Judge, however, will not have the authority to extend the October 20, 2009 date, now set for completion of all discovery. All other motions or applications of any kind whatever must first be brought to the undersigned's attention through a joint conference call with the Court and affected parties, at which time the Court will determine whether the motion or application is best resolved by this Court or should be referred to the Magistrate Judge.

SO ORDERED.

  
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JED S. RAKOFF, U.S.D.J.

Dated: New York, New York  
October 23, 2008